

E-filed 4/24/07

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8 Attorneys for Plaintiffs
9 UMG RECORDINGS, INC.; WARNER BROS.
10 RECORDS INC.; CAPITOL RECORDS, INC.;
11 ELEKTRA ENTERTAINMENT GROUP INC.;
12 AND ARISTA RECORDS LLC

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 UMG RECORDINGS, INC., a Delaware
17 corporation; WARNER BROS. RECORDS
18 INC., a Delaware corporation; CAPITOL
19 RECORDS, INC., a Delaware corporation;
20 ELEKTRA ENTERTAINMENT GROUP INC.,
21 a Delaware corporation; and ARISTA
22 RECORDS LLC, a Delaware limited liability
23 company,

24 Plaintiffs,

25 v.

26 SARA POSTER,

27 Defendant.

Case No. C06-2051 JF

Honorable Jeremy Fogel

***EX PARTE APPLICATION TO CONTINUE
CASE MANAGEMENT CONFERENCE
AND [PROPOSED] ORDER***

1 Plaintiffs hereby request that the Court continue the case management conference currently
2 set for May 4, 2007, at 10:30 a.m. to August 3, 2007. Defendant in this case has not yet been served
3 with the summons and complaint. Plaintiffs have made numerous attempts at personal service, and
4 are still attempting to locate Defendant to personally serve her with the summons and complaint in
5 this matter. Since filing the complaint, Plaintiffs' counsel has spoken with Defendant three times by
6 calling Defendant on her mobile telephone. See Kerr Declaration ¶¶ 3-5. In each of these
7 conversations, Plaintiffs' counsel has described the nature of the case, and explained to Defendant
8 that Plaintiffs are attempting to serve Defendant with the summons and complaint. *Id.* Defendant
9 has refused to give Plaintiffs an address for service. *Id.* On November 21, 2006, Defendant told
10 Plaintiffs' counsel on the telephone that she would soon be admitted to the California Bar. *Id.* at ¶ 5.
11 Plaintiffs' counsel has learned that Defendant was admitted as a member of the California Bar on
12 December 1, 2006. *Id.* at ¶ 6. Plaintiffs' have attempted to serve Defendant at the address provided
13 on the California State Bar website, however the address provided for Defendant is a commercial
14 post office box, and therefore Defendant cannot be personally served at that address. *Id.* at ¶ 7. On
15 January 22, 2007, the Court issues an Order permitting Plaintiffs to begin discovery for the purpose
16 of obtaining Defendant's address in order to serve the summons and complaint. *Id.* at ¶ 8. Since this
17 Order, Plaintiffs have served three subpoenas for the purpose of finding address or contact
18 information in order to serve Defendant with the summons and complaint. *Id.* at ¶ 9. Plaintiffs'
19 counsel has not yet found a current address for Defendant. *Id.* Plaintiffs' counsel attempted to call
20 Defendant's mother on the telephone on April 11, 2007, and again on April 17, 2007, for the purpose
21 of determining an address for Defendant in order to serve the summons and complaint in this matter.
22 *Id.* at ¶¶ 10-11. On April 17, 2007, Plaintiffs' counsel sent Defendant a letter, via email and email,
23 explaining that we are still attempting to serve her with the summons and complaint in this matter,
24 and urging her to contact Plaintiffs' counsel. *Id.* at ¶ 12. Plaintiffs' counsel has not yet heard from
25 Defendant. *Id.* Plaintiffs' therefore respectfully request that the Court continue the case
26 management conference, since Defendant has not yet been served. Plaintiffs intend to continue
27 limited discovery for the purpose of finding an address in order to serve Defendant with the
28 summons and complaint. Along with this *ex parte* application, Plaintiffs have filed an *ex parte*

1 application for leave to conduct a telephonic deposition of Defendant's mother. Plaintiffs thus
2 hereby request that the Court continue the case management conference currently set for May 4,
3 2007, at 10:30 a.m. to August 3, 2007.

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5 Dated: April 20, 2007

HOLME ROBERTS & OWEN LLP

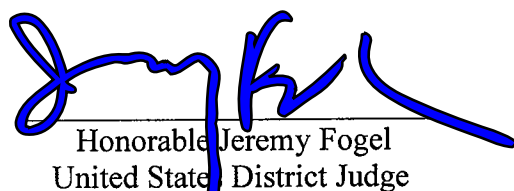
6 By: /s/ Thomas Kerr
7 Thomas M. Kerr
8 Attorney for Plaintiffs

9 **ORDER**

10 Good cause having been shown:

11 **IT IS ORDERED** that the case management conference currently set for May 4, 2007, at
12 10:30 a.m. is hereby continued to August 3, 2007.

13
14 Dated: 4/24/07

15 By: 
16 Honorable Jeremy Fogel
17 United States District Judge
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